

# Baku Without a Mayor

written by Samir Aliyev

For the last 20 years, the Azerbaijani capital, Baku, has been experiencing continuous demolitions, constructions, and excavations. While some residents are satisfied with these processes, some are dissatisfied. At different times, residents have held numerous protests in front of the Baku City Executive Authority (BCEA) and elsewhere. The reason is simple: residents are left out of the decision-making process and they experience the bitter consequences of decisions made against their will. The capital is governed by an appointed head of the executive authority who is not accountable to the population, rather than by an elected body such as a city council which would be accountable to residents. Everything is carried out based on the decisions and views of the BCEA. However, apart from being an effective, transparent, and socially-oriented governance mechanism, the establishment in Baku of a mayoral institution representing the population is a commitment made by the Azerbaijani government to the Council of Europe. It is no accident that Azerbaijan is the only country of the Council of Europe without a mayoral institution.

## **Why can't the head of the executive authority be mayor?**

According to official statistics, in [2018](#), the population of Baku was about 2.3 million, or 22.3% of the general population. In reality, however, the population is much bigger. The area of Baku is 2,200 sq. km, and the city consists of 12 administrative districts and 59 settlements. There are 53 (7 city and 46 settlement) municipalities in Baku.

In accordance with Article 124 of the Constitution of the Republic of Azerbaijan, local executive authority is exercised by the heads of the local executive authorities in the

regions. Baku is governed by the head of the BCEA. The powers of local executive authorities are determined by the President of the Republic of Azerbaijan, who also appoints and dismisses the heads of the local executive authorities. The activities of the executive authorities, including the BCEA, are determined by the [Regulation on Local Executive Authorities](#) approved by the President in 2012 (decree No. 648). The statute notes that the head and the deputies of the BCEA are appointed and dismissed by the president.

The statute defines broad responsibilities of the heads of local executive authorities, including the head of the BCEA, which can be summarized as follows:

- The heads of local executive authorities are personally responsible to the President and they fulfill the President's orders and are accountable to him;
- they ensure the interaction of central executive authorities with relevant local authorities, municipalities and non-governmental organizations;
- they ensure the protection and implementation of citizens' rights and freedoms, protection of property and public order in the relevant territory;
- they ensure the implementation of activities identified in state programs, concepts and action plans in the appropriate area, security of state information resources and systems, and information exchange with government bodies, agencies, enterprises and organizations;
- they ensure the reception of citizens, as well as reviewing and responding to their applications, proposals and complaints in accordance with legislation;
- They publish public information on the activities of the local executive authorities, create a local executive authority's website, annually report on the activities of the local executive bodies and take public opinion into consideration in their activities, etc.

According to Article 2.11 of the Regulations, the head of the BCEA sets up a Council, which is a permanent advisory body that reviews and proposes solutions to the city's economic, socio-cultural and other local issues. The Council has up to 25 members and they include: the head of the BCEA and their deputies, the heads of the executive authorities of city districts, the heads of departments of the local executive authority, the heads of the local authorities of central executive authorities, as well as the heads of departments, organizations and enterprises in the city. Meetings of the Council are held at least twice a month and are chaired by the head of the BCEA.

There is also a [Board of Appeals](#) at the BCEA, a collegial body operating on a public (unpaid) basis. The task of the Board is to review repeated complaints from entrepreneurs about the decisions made by local authorities. The chairman and members of the Board of Appeals, the head and staff of the Secretariat are also approved by the head of the BCEA.

When we look at the structure of the executive authorities in the BCEA or in other cities, we see that there are no mechanisms for mutual control. The head of the executive authority creates both advisory and appeals councils, and identifies their heads and members. The Advisory Councils do not include members of the local communities and all of the Council members are state officials. As for the Board of Appeals, it is not possible for this body to function properly because without the consent of the Head of the Executive Authority, no decision is made by this Board. In this case, it is doubtful that the Board of Appeals, formed by the head of the executive authority, would make decisions in favor of the citizens. It is no coincidence that the official website of the executive authorities does not have much information on the activities of the Board of Appeals. For example, an analysis of the [BCEA website](#) reveals that the Board of Appeals made its last decision a year ago – in July 2018. The creation of the Board of Appeals reminds me of an example of a popular

song in Azerbaijan: I have a complaint from you to you. At the same time, the board, as a group, mostly supports state decisions. The fact that the Board of Appeals mostly upholds decisions made against the interests of the citizens, including entrepreneurs, demonstrates this point.

As mentioned in the legislation, the heads of the executive authorities fulfill the tasks identified by the supreme governing bodies of the state and have no obligation to consult and take into account the opinion of the local population, including various social and professional groups. The main mission of these institutions is not to raise local problems at the national level, but to implement state policy at the local level. The head of the body controls all the branches of the body, the advisory body is not elected, and the Board of Appeals cannot be a disinterested party. All these governance structures are far from global practices in terms of capital city management standards and do not meet the requirements of the [European Charter of Local Self-Government](#), to which the Azerbaijani government made a commitment.

### **Has the capital status of Baku been defined?**

Even though Article 22 ("Capital") of the Constitution of the Republic of Azerbaijan establishes Baku as the capital of the Republic of Azerbaijan, there is no separate law on the status of the capital. Article 5.9 of the Law on [Territorial structure and administrative territorial division](#) states that the status of Baku is determined by the relevant law of the Republic of Azerbaijan. 19 years after the adoption of the law, a legislative act has yet to be adopted. Although the working plan of the Parliament for spring and autumn sessions in [2001](#) and [2002](#) included a law on the status of Baku, the issue of adopting such a law was later excluded from the government's agenda.

The importance of regulating the status of Baku in legislation was underlined in two Recommendations addressed by the

Congress of Local and Regional Authorities of Europe to the Government of Azerbaijan. [Recommendation 126](#) (2003) *on local and regional democracy in Azerbaijan* states that the government should soon adopt a law on the status of the capital and that this law should include the establishment of a local administration governed by the elected City Council acting at overall city level. Clause 8.2.6 of the document mentioned that “the city of Baku is governed by a governor and his deputies (covering eleven different districts), all of whom are representatives of the state executive at the peripheral level; while acknowledging that a capital city does sometimes discharge duties which transcend local interests for reasons of economy and efficiency, such interests should be managed by a democratically elected council acting at overall city level; this principle is quite compatible with the existence of smaller urban municipalities complementing the municipality representing the overall city.” The Congress’s next document – [Recommendation 326](#) (2012) *on local and regional democracy in Azerbaijan* reiterated the need for Baku to be governed by an elected municipality. According to the document, “the capital city of Azerbaijan is not governed by an integrated local government body such as a democratically elected council, but by an executive authority, accountable only to the president, with no democratic control.” In the document, the Council of Europe experts recommended the adoption of a special law on the city of Baku, referring to the Law of the Republic of Azerbaijan *On Territorial structure and administrative territorial division*.

The capital city is such a complex and ever-evolving mechanism that, without a coordinated strategy, solving its problems can cost the country great resources. According to the Council of Europe’s separate recommendations, capital cities should be managed by democratically elected Councils for both economy and efficiency.

[The status of the capital cities](#) of some Council of Europe member states is determined by constitutional rules, some by

separate laws, and some by “unwritten rules” based on historical traditions and social consent. For example, in countries such as Albania, Austria, Belgium, Bulgaria, the Czech Republic, Germany, Hungary, Italy, and the Netherlands, the status of the capital is regulated by the Constitution. In such countries as Estonia, Greece, Lithuania, Moldova, Sweden, and Switzerland, the status of the capital is determined by a separate law. Even in countries that are not members of the Council of Europe, such as Kazakhstan, Kyrgyzstan, Tajikistan, and Turkmenistan, similar laws, albeit with some shortcomings, have been adopted. In some countries, historical, cultural, and political factors play a major role in the identification of capital cities. These include countries such as Cyprus, Denmark, Finland, France, Malta, Portugal, and the United Kingdom. Although in Azerbaijan, which is included in the first group, Baku is identified as the capital city by the Constitution, the legal framework, rules and regulations governing the activities of elected self-government bodies and executive bodies in the process of capital city management are not mentioned anywhere.

### **What is the mayoral institution?**

There are two recommendations of the Council of Europe regarding the self-government of capital cities. According to [Recommendation 133](#) (2003) *on management of capital cities*, capital cities should be provided with the necessary facilities and resources to enable them to carry out their administrative functions independently. Clause 12 of the document mentions the citizen participation as a prerequisite for the legality of the decision-making process in capital cities. This participation must be real and effective, and should not be the mere formal involvement of citizens in advisory bodies.

The Committee of Ministers of the Council of Europe recommends that member states provide their capital cities with maximum independence, including necessary financial independence. Any

changes in political views should not undermine the relationship between the central government and the self-governing city management.

Furthermore, [Recommendation 219](#) (2007) *on the status of capital cities*, also envisages the application of unified local self-governance principles in capital cities. Paragraph 8 of the document states that bodies under the control of the central government cannot compensate the activities of local self-government bodies of capital cities.

According to the approach of the Council of Europe, the municipalities of capital cities should have the right of local self-government as well as the powers exercised by the democratically elected local government. The Council of Europe believes that the management of the capital cities by the local authorities without authoritative bodies designated by the central government or a municipal executive body elected at the capital level is incompatible with the basic principles of the Charter. At the national level, differences exist with regard to the status of capital cities, depending on national traditions, political conditions and social environment, and this diversity does not conflict with the Charter's requirements and principles. The presence of administrative units in capital cities cannot compensate for the absence of an independent administrative structure because the former units are under the strict control of the central government.

In its recommendations to member states, the Council of Europe approaches the management standards of capital cities in the following ways:

- The necessary conditions for the functioning of democratically elected municipalities should be created and the administrative principles of the capital cities should be regulated by law in member states, especially in states where the capital city is not governed by a municipality;

- The distribution of powers between the municipalities and local executive authorities in capital cities should be clear and transparent;
- In member states where capital cities are still not governed by municipalities, the status of these cities as capital cities must be recognized;
- Forms of cooperation between central authorities and the municipalities of capital cities should be found in spite of the political differences;
- Administrative units of capital cities should be provided with the necessary financial resources to exercise their natural or delegated responsibilities;
- Necessary measures should be taken to prevent the use of the financial systems of capital cities as a political tool, including tax deductions or other financial constraints.

### **What should the Baku Mayoral Institution be?**

The establishment of a mayoral institution would not be a novelty because a self-government institution existed in Baku for a long time. The experience of elective bodies in the administration of the capital coincides with the period when the current territory of Azerbaijan was part of the Russian Empire. In 1878, eight years after the Russian emperor issued a decree on the establishment of self-governing city bodies, namely the Duma and the municipality, a city election was held in Baku. The first Duma had 72 elected members, then the number of elected members increased to 75. According to the decree, the number of Azerbaijanis could not be more than half of the Duma members. Those individuals over 25 who had real estate or business in the amount of 1500 AZN could be elected to the Duma. Municipal offices were executive while the Duma was a legislative body. The Duma made decisions concerning the city while the municipality was responsible for their implementation. The Baku City Duma remained intact until the establishment of the Soviet government in Azerbaijan. In the following years, the city of Baku was governed by a Soviet

style "elected" body. For example, between 1939 and 1977 this body was called the Executive Committee of the Baku City Council of Deputies, and from 1977 to 1991 it was called the Executive Committee of the Baku City Council of People's Deputies. Since 1991, the city has been governed by a non-elected body, namely, the Baku City Executive Authority.

The creation of local self-government in the capital of the Republic of Azerbaijan should begin immediately with reference to international experience in the management of capital cities, as well as international documents in this area. First of all, a Law *On the Status of Baku* should be adopted. The formation of the city council, which is the elective body of the capital, as well as the mechanisms for the election of the mayor, the mechanisms of the city management by the Council, etc. should be reflected in the Law. The Electoral Code should include the terms of the City Council election, the number of elected officials depending on the type of local self-government, and the rules of representation of Baku administrative units in the mayorship.

*This year, municipal elections, which have been operating for 20 years, will be held for the fifth time. In the three months before the election, a move to establish a mayoral institution does not seem realistic. Most likely, the elections will be held as before and the city of Baku will be again left without a mayor. However, the government can establish a mayoral institution in Baku to fulfill its commitment to the Council of Europe by postponing the current election. This is the most successful way to maximize the participation of Baku residents in the city management process, thereby increasing their ability to influence the decision-making process. In fact, the process should not be restricted to the capital. The issue of establishing metropolitan municipalities, like in many countries such as Turkey, should be on the government's agenda in Baku, Ganja and Sumgayit. The powers of local self-governing bodies should be enhanced while their financial capabilities should be expanded. Otherwise, the newly-*

*established metropolitan municipalities will be no different from the other municipalities.*